

# **EXHIBIT 10**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA,

vs.

CASE NO: 2:05cr119-F

DON EUGENE SIEGELMAN,  
RICHARD M. SCRUSHY,  
PAUL MICHAEL HAMRICK,  
and GARY MACK ROBERTS,

Defendants.

\* \* \* \* \*

EXCERPTS OF TRIAL PROCEEDINGS

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TESTIMONY AND PROCEEDINGS before The

Honorable Mark E. Fuller, United States District  
Judge, and a jury, at the United States Federal  
Courthouse, One Church Street, Montgomery,  
Alabama, reported by Dee Coker, Registered  
Professional Reporter and Commissioner for the  
State of Alabama, commencing on Tuesday, May 2,  
2006, commencing at 9:00 a.m.

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APPEARANCES

FOR THE UNITED STATES:

Mr. Louis V. Franklin, Sr.  
Mr. Stephen P. Feaga  
Mr. James B. Perrine  
Mr. Richard C. Pilger  
Mr. Joseph L. Fitzpatrick, Jr.  
Ms. Jennifer M. Garrett  
Assistant United States Attorneys  
UNITED STATES ATTORNEY'S OFFICE

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□

1 Q. Yes.

2 A. I think I said earlier it was our  
3 understanding he had supported Governor Fob  
4 James.

5 Q. And is that why they were having these  
6 conversations about what it was going to take  
7 to get right?

8 A. That's correct.

9 Q. Okay. Now -- now, did there come a time when  
10 you saw Richard Scrushy at the offices of the  
11 governor?

12 A. Yes.

13 Q. Do you remember exactly when that was?

14 A. Not exactly, no.

15 Q. Now, did there come a point in time --

16 MR. FEAGA: Your Honor, I'd like to  
17 approach the witness with  
18 Government Exhibit #21. It's the  
19 IHS check.

20 THE COURT: You may approach.

21 MR. FEAGA: Thank you, Your Honor.

22 Q. Mr. Bailey, I'm going to show you what's been  
23 marked as Government's Exhibit #21 for

□

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1 identification purposes and ask you to take a  
2 look at it.

3 A. Yes, sir. I've seen this exhibit.

4 Q. You've seen that before?

5 A. Yes, sir.

6 Q. Would you tell the ladies and gentlemen of

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7 the jury where you first ever saw, if you

8 remember, Government's Exhibit #21.

9 A. I saw it when the Governor showed it to me.

10 Q. Okay. And where were you when he showed it  
11 to you?

12 A. At the Capitol.

13 Q. And where in the Capitol were you?

14 A. Inside the Governor's Office area.

15 MR. FEAGA: Your Honor, at this time --

16 Q. Well, I'll ask you a couple more questions  
17 about it. Would you tell the ladies and  
18 gentlemen of the jury what, if anything, the  
19 Governor said to you when he showed you that  
20 exhibit?

21 A. He told me that Mr. Scrushy was halfway  
22 there, referring to his --

23 MR. LEACH: Objection to this. And I'd

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1 like to have the date stated very  
2 specifically.

3 MR. FEAGA: Your Honor, he can do that  
4 on cross. I've established it.

5 MR. LEACH: He's established nothing.

6 MR. FEAGA: Can I offer the check, Your  
7 Honor?

8 THE COURT: Get the date off the check.

9 MR. FEAGA: Yes, sir. I was trying to  
10 get it in, and I can't seem to  
11 make Mr. Leach happy.

12 MR. LEACH: I didn't object.

13 THE COURT: Ask the witness to look at

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the exhibit. If he doesn't have  
it, I'll get him a copy.

MR. FEAGA: I've got it here, Your  
Honor.

THE WITNESS: I can see it from here.

THE COURT: Point to the witness from  
the exhibit that he's looking at,  
establish a date; and then we'll  
move forward.

MR. FEAGA: Yes, sir. Your Honor, if I

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can, I just want -- I can't  
authenticate it without asking him  
how it connects to the case, which  
he's objecting to. And so I've  
got to go one way or the other.  
He's objecting to both ways of  
getting it in, but I'll try again.

MR. LEACH: I have no objection to the  
check. Let the check in. I just  
want him to tell me when he first  
saw it. That's what I want.

THE COURT: I'll let you run your  
case. You ask the questions.  
I'll rule on the objections.

MR. FEAGA: Thank you.

Q. Mr. Bailey, can you tell from the copy of the  
check that you have in your hand what the  
date on it is?

A. July 19th, 1999.

Q. Okay. Now, when you saw the Governor, did he

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21 have this check in his hand? Did he have it?

22 A. Yes, sir.

23 Q. Okay. Now, when the Governor showed you the

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1 check, what, if anything, did he say to you?

2 A. He made a comment referring to Mr. Scrushy's  
3 commitment to give 500,000 and he's halfway  
4 there.

5 Q. Okay. And what, if anything, did you say to  
6 him?

7 A. I said -- I responded by saying, what in the  
8 world is going to want for that; and his  
9 response was the CON Board or the C-O-N  
10 Board.

11 Q. Okay. And what did you --

12 A. I wouldn't think there would be a problem  
13 with it. And he said, I wouldn't think so.

14 Q. Now, what did you say -- now, if you could,  
15 repeat that conversation. You showed it to  
16 him. He said he's halfway there. And what  
17 did you say to him?

18 MR. LEACH: It's been asked and  
19 answered.

20 THE COURT: Overruled.

21 Q. What did you say when he showed you the check  
22 and he said, he's halfway there?

23 A. I responded by, what in the world is he going

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1 to want for that? And the Governor said, the  
2 C-O-N Board or the CON Board. And I said, I  
3 wouldn't think there would be a problem with

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4 it; and he said, I wouldn't think so.

5 Q. Okay. And isn't it true that the week after  
6 the date on this check, on July the 26th,  
7 Richard Scrushy got appointed to the CON  
8 Board?

9 MR. LEACH: Objection unless there's  
10 some foundation for that.

11 MR. FEAGA: If he knows.

12 A. Do I know if he was appointed?

13 THE COURT: Wait. wait, wait.

14 MR. FEAGA: Can I publish the check  
15 now, Judge? well, I've got to  
16 offer it first. we'd like to  
17 offer into evidence --

18 MR. LEACH: I have an objection on the  
19 table.

20 THE COURT: Is it a letter of  
21 appointment already in evidence?

22 MR. LEACH: It is not.

23 MR. FRANKLIN: Yes.

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1 MR. FEAGA: Yes, sir, Your Honor, it  
2 is.

3 MR. LEACH: I don't think it is. Are  
4 all of them in?

5 MR. FRANKLIN: #6B, Mr. Feaga.

6 THE COURT: Government's Exhibits #6A  
7 through I are the Government's  
8 exhibits. The CON is dated July  
9 the 26th, 1999. Objection  
10 overruled.

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11 Are you moving for the  
12 admission of Government's Exhibit  
13 #21?

14 MR. FEAGA: I am, Your Honor. And I  
15 apologize to the court.

16 THE COURT: No need to apologize to the  
17 Court. Objection from the  
18 Governor?

19 MR. McDONALD: To which -- Judge, I'm  
20 having trouble.

21 THE COURT: Any objections to the  
22 admissibility of Government's  
23 Exhibit #21?

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1 MR. McDONALD: And that is the --

2 THE COURT: Check.

3 MR. McDONALD: No objection.

4 THE COURT: Mr. Hamrick?

5 MR. DEEN: No.

6 THE COURT: Mr. Roberts?

7 MR. BAXLEY: Without putting that on  
8 Mr. Roberts.

9 THE COURT: Mr. Scrushy?

10 MR. LEACH: No.

11 THE COURT: Without objection,  
12 Government's Exhibit #21 is  
13 admitted subsequent to the request  
14 for limiting instruction.

15 MR. FEAGA: May I publish it on the  
16 Elmo?

17 THE COURT: You may.



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18 Q. Okay. Mr. Bailey, is that the date you read  
19 off the exhibit a little earlier?

20 A. Yes, sir, it is.

21 Q. And is this the check --

22 A. That is the --

23 Q. -- that you saw the Governor with when he

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1 told you that Mr. Scrushy wanted the CON  
2 Board?

3 A. Yes, sir.

4 Q. Now --

5 MR. LEACH: Your Honor, the question  
6 posed by counsel that Mr. Scrushy  
7 wanted the CON Board, that was  
8 not the testimony. Object to that  
9 recitation.

10 MR. FEAGA: Your Honor, he can argue  
11 that to the jury all he wants.  
12 That's what I heard. He may have  
13 heard something else.

14 MR. LEACH: Well --

15 THE COURT: Direct your comments to the  
16 bench. Objection overruled.

17 MR. FEAGA: Yes, sir.

18 Q. Now, how much is that check for?

19 A. 250,000.

20 Q. Now, let me show you something else, if I  
21 can. Have you seen this check since you saw  
22 the Governor with it and before coming into  
23 this courtroom? Has it been shown to you by

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- 1 investigators?
- 2 A. This copy, yes, sir.
- 3 Q. All right, sir. And do you -- did you ever
- 4 tell them when you saw that check -- did they
- 5 ever ask you to look at the signature on it?
- 6 A. Yes.
- 7 Q. And what did you tell them?
- 8 A. I actually thought it was Richard Scrushy the
- 9 first time I looked at it.
- 10 Q. Okay. I want you to look at it today. Is
- 11 that the signature that you looked at when
- 12 you saw it at the Governor's Office?
- 13 A. Yes, sir.
- 14 Q. And you thought that was Richard Scrushy's
- 15 signature?
- 16 A. I did. I hadn't seen his signature before,
- 17 but it just looked like -- I glanced at it
- 18 and it looked like Richard Scrushy, so --
- 19 Q. You don't in fact know whether it is or not?
- 20 A. I don't.
- 21 Q. Now, let me ask you, if you would, to tell
- 22 me -- if you would, look right down here
- 23 where it says Alabama Education Lottery

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- 1 Foundation. Can you tell the ladies and
- 2 gentlemen of the jury what that is?
- 3 A. What is the Alabama Education Lottery
- 4 Foundation?
- 5 Q. Yes, sir.
- 6 A. It was a campaign fund for the lottery that

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7 Governor Siegelman was promoting.

8 Q. Now, I see over here -- up here, right here

9 it says IHS. Now -- and then it says here --

10 well, can you make that out, what that says?

11 A. No, sir.

12 Q. Let me see if I can blow it up a little

13 bigger. I don't know why it won't go any

14 bigger.

15 Now let's see. Do you know what that

16 check says?

17 A. Integrated Health Services.

18 Q. And down here, it looks like it says MD; is

19 that right?

20 A. Maryland maybe. I can't read the town.

21 Q. Do you know -- or had you at that time when

22 you saw that check that day ever heard of

23 Integrated Health Services?

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1 A. No.

2 Q. Did you know of any Integrated Health

3 Services in Maryland?

4 A. No.

5 Q. But the Governor told you this check was from

6 Richard Scrushy?

7 A. Yes, sir.

8 Q. You said he said at the outset of that

9 conversation, he's halfway there. Do you

10 know what he was talking about when he said

11 that this \$250,000 was halfway there?

12 A. Again -- again, he was referring to the

13 \$500,000 commitment Mr. Scrushy had made to

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14 our lottery campaign.

15 Q. Okay. Now, do you know what happened to this  
16 check after that day?

17 A. It was ultimately sent to our campaign  
18 finance office, but I'm not sure how long it  
19 stayed there.

20 Q. Were there any instructions given to the  
21 campaign finance office when it went out  
22 there?

23 A. To hold the check until it was determined how

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1 to disclose it.

2 Q. And who gave those instructions?

3 A. The Governor.

4 Q. To hold it until it was determined how to  
5 disclose it?

6 A. Correct.

7 Q. And who was in charge of the AELF campaign  
8 that got this check?

9 MR. LEACH: what campaign is AELF?

10 MR. FEAGA: whatever is on the check.

11 A. I don't know. who do you mean?

12 Q. Have you ever heard of a fellow named Darrin  
13 Cline?

14 A. Yes, Darrin Cline.

15 Q. Was Darrin Cline -- was he associated with  
16 this Alabama Education Lottery Foundation?

17 A. He was involved, yes, sir.

18 Q. Was he one of the senior people in that  
19 organization?

20 A. He was a fund raiser.